RECORD
AND
BRIEFS.

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No. 16-1466

IN THE

Supreme Court of the United States

MARK JANUS,

Petitioner,

v.

AMERICAN FEDERATION OF STATE, COUNTY, AND MUNICIPAL EMPLOYEES, COUNCIL 31, et al.,

Respondents.

On Petition for a Writ of Certiorari to the United States Court of Appeals for the Seventh Circuit

BRIEF FOR THE COMPETITIVE ENTERPRISE INSTITUTE AS *AMICUS CURIAE* IN SUPPORT OF PETITIONER

SAM KAZMAN
COMPETITIVE
ENTERPRISE INSTITUTE
1310 L St., N.W.
Washington, D.C. 20005

ANDREW M. GROSSMAN
Counsel of Record
MARK W. DELAQUIL
BAKER & HOSTETLER LLP
1050 Connecticut Ave., N.W.
Washington, D.C. 20036
(202) 861-1697
agrossman@bakerlaw.com

Counsel for the Amicus Curiae

QUESTION PRESENTED

Whether the First Amendment permits government to force its employees to associate with and subsidize a labor union that, in the course of its representational role, advocates on gun control, marijuana legalization, public funding for abortion providers, adoption of the metric system, and other divisive issues.

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INTEREST OF THE *AMICUS CURIAE*[1]

Founded in 1984, the Competitive Enterprise Institute ("CEI") is a non-profit public policy organization dedicated to advancing the principles of limited government, free enterprise, and individual liberty. CEI frequently publishes research and commentary on labor law and policy, as well as the speech and associational rights of workers subject to labor laws. It also regularly participates in litigation, as both a party and an *amicus curiae*, concerning the scope and application of First Amendment rights. The instant case concerns CEI because the Illinois law at issue forces state employees to associate with and subsidize the political and ideological advocacy of a private labor union against their will.

INTRODUCTION AND SUMMARY OF ARGUMENT

The injury identified by the plaintiffs in *Abood v. Detroit Board of Education* was that "a substantial part" of the agency fees they were required to pay a labor union would be used to fund union "activities and programs which are economic, political, profes-

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[1] Pursuant to Rule 37.2(a), all parties received at least 10 days' notice of the *amicus curiae*'s intent to file, and letters consenting to the filing of this brief are filed with the clerk. In accordance with Rule 37.6, counsel for the *amicus curiae* certifies that no counsel for any party authored this brief in whole or in part and that no person or entity other than the *amicus curiae* or its counsel made a monetary contribution intended to fund the brief's preparation or submission.

sional, scientific and religious in nature of which Plaintiffs do not approve, and in which they will have no voice." 431 U.S. 209, 213 (1977) (quoting complaint).

They, and this Court, didn't know the half of it. Since *Abood* upheld agency fee arrangements, public-sector unions have demonstrated unbridled creativity in channeling the fees paid by non-members to fund a range of ideological activities as wide as any political party's. Notwithstanding the requirement that activities chargeable to non-members must be "'germane' to collective-bargaining activity," *Lehnert v. Ferris Faculty Ass'n*, 500 U.S. 507, 519 (1991), as a practical matter *Abood* permits government to compel its employees to associate with and subsidize political and ideological advocacy on a host of topics, many of them quite surprising.

The labor union at issue in this case, an affiliate of the American Federation of State, County and Municipal Employees ("AFSCME"), has in the past year used agency fees to pay for advocacy on such issues as: right-to-work statutes, infrastructure spending, government privatization and contracting, the minimum wage, voter-identification laws, tax policy, immigration reform and enforcement, gun control, D.C. statehood, marijuana legalization, "racial justice," and Supreme Court nominations, among many others. It has spent agency fees to conduct an "AFSCME FOR HILLARY" rally at its annual convention, to instruct members on political organizing and voter registration, and to organize and carry out

a "direct action" against a hotel affiliated with then-candidate Donald Trump. It has even, as the *Abood* plaintiffs suspected would occur, spent agency fees to conduct religious activities.

The use of agency fees to fund overtly political and ideological activities is not unique to the AFSCME. The American Federation of Teachers and National Education Association, among other public-sector unions, similarly use agency fees to fund advocacy on hot-button issues, including trade deals, public funding for Planned Parenthood, LGBTQ rights, and campaign-finance reform. And some public-sector unions require non-members, through their agency fees, to subsidize union organizing campaigns.

The Court has recognized that laws compelling government workers to subsidize speech on "core issues such as wages, pensions, and benefits" may themselves impermissibly abridge their First Amendment rights. *Harris v. Quinn*, 134 S. Ct. 2618, 2632 (2014). In reality, the agency-fee system countenanced by *Abood* inflicts far greater First Amendment injury, forcing workers to fund speech that violates their consciences, their beliefs, their political commitments, and their principles. As a factual matter, Justice Frankfurter was right when he labeled "rather naïve" the assumption underlying *Abood* "that economic and political concerns are separable." *Int'l Ass'n of Machinists v. Street*, 367 U.S. 740, 814 (1961) (Frankfurter, J., dissenting).

The failure of that assumption is reason enough to revisit *Abood*, and the serious injury that decision

continues to inflict on dissenting public-sector workers only heightens the urgency of so doing. The Court should grant certiorari.

ARGUMENT

Abood Allows Government to Compel Support for Political and Ideological Advocacy

"[A] public-sector union takes many positions during collective bargaining that have powerful political and civic consequences." *Knox v. SEIU*, 132 S. Ct. 2277, 2289 (2012). For that reason, "compulsory fees constitute a form of compelled speech and association that imposes a 'significant impingement on First Amendment rights.'" *Id.*

That impingement is far greater than the Court's previous decisions understood.

A. The Union Respondent in This Case Charges the Petitioner and Other Non-Members for a Wide Variety of Political and Ideological Advocacy

The Court has held that, under *Abood*, only activities that are "germane" to collective bargaining may be charged to non-members. *Lehnert*, 500 U.S. at 519. Unions' national conventions, it has further held, are "essential to the union's discharge of its duties as bargaining agent." *Ellis v. Railway Clerks*, 466 U.S. 435, 449 (1984). Accordingly, public-sector unions treat convention expenses as entirely chargeable to non-members.

The *Hudson* notice issued to the petitioner by the lead respondent in this case, AFSCME Council 31, states that the Council spent $268,855 for "Convention expense," all of which it treated as chargeable.[2] The published proceedings of AFSCME's most recent convention[3]—held in Las Vegas over four days in July 2016—record the activities that non-members like the petitioner were compelled by the State of Illinois to subsidize:

- **Political Advocacy**. The AFSCME's Political Director explained that the union has rejected the notion that a union's organizational activities and its "organizing on behalf of candidates" it supports "couldn't mix." Proceedings at 127. That can be most clearly seen in the union's advocacy for Hillary Clinton's candidacy. The convention's general session featured a lengthy "AFSCME FOR HILLARY" program, culminating with a speech by the candidate herself. *Id.* at 35–41. One speaker led conventioneers in a chant of "We're With Her," shortly before they were shown a union-produced video presentation entitled "I'm

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[2] Memorandum of Petitioner, Ex. 3 ("Notice to All Nonmember Fair Share Fee Payors"), *Rauner v. American Federation of State, County and Municipal Employees, Council 31 et al.*, No. 15-cv-01235 (N.D. Ill. filed Mar. 23, 2015), ECF No. 92-4, at 252 [hereinafter "*Hudson* Notice"].

[3] Proceedings of the AFSCME 42nd International Convention (2016), *available at* http://2016.afscme.org/resources/document/114-16-Proceedings-Vol-1-Final-3.pdf
[hereinafter "Proceedings"].

With Her." *Id.* at 36. The AFSCME's president stated in his remarks that the union's members "will stand with her in every corner of this nation" and were "proud to stand with her today." *Id.* at 37. Secretary Clinton, in turn, implored members to "join [her] in this campaign" by knocking on doors and conducting voter registration. *Id.* at 41. The union then conducted breakout sessions for members to learn political advocacy skills. *Id.* at 41, 57.

The union also advocated against then-candidate Donald Trump and Republicans generally. On the first day of proceedings, the union's president led conventioneers in booing Trump. *Id.* at 10. Subjected to similar treatment were Illinois Governor Bruce Rauner, *id.* at 8, 32, 34, 38, 172, 203, Wisconsin Governor Scott Walker, *id.* at 38, 89–90, 122, 129, and Michigan Governor Rick Snyder, *id.* at 129—all Republicans. The union actually cut short its third day of convention proceedings so that members could participate in a "TRUMP HOTEL DIRECT ACTION"—a half-mile protest march—to "send a clear message to Donald Trump." *Id.* at 103–04. The convention chartered buses for those participating in the protest. *Id.* at 54, 103.

Finally, union leaders also rallied members to participate in the union's efforts to "take back the U.S. Senate and flip control of Congress." *Id.* at 11. As regards the Senate, the convention adopted a resolution condemning Senate Republicans

and demanding that the Senate Judiciary Committee "hold[] hearings on Judge Merrick Garland's nomination to the U.S. Supreme Court, followed by an up-or-down vote in the U.S. Senate." *Id.* at 25–26.

- **Advocacy Against Right-To-Work Legislation.** The convention adopted a resolution condemning and vowing to "work to prevent the passage of so-called right-to-work laws or union-busting laws that restrict 'fair share' provisions in the public sector, and to repeal any such laws that are in place." Proceedings at 30–31. More specifically, the convention also condemned proposed labor-law reforms by Illinois Governor Bruce Rauner, pledged its "solidarity" with Illinois unions opposing the proposals, and pledged to assist in their opposition. *Id.* at 44–45.

- **Advocacy for Public Infrastructure Spending.** The convention resolved that it "supports infrastructure funding" by government and opposes efforts to privatize infrastructure or "encourage public-private partnerships." Proceedings at 22. In a separate resolution, it called on Congress and the state to "substantially increase investments in infrastructure" affecting public health. *Id.* at 176.

- **Advocacy for Increased Educational Spending.** The convention resolved that it "support[s] efforts to make college affordable for all," including through increased government spending. Proceedings at 109. It also expressed its support for

free community college programs and increased financial support for students. *Id.* Lest there be an ambiguity on the point, the convention "call[ed] for a massive increase in federal and state funding for higher education," which it proposed funding through "a financial transactions tax." *Id.* at 111.

- **Advocacy for Paid Family and Sick Leave**. The convention resolved to support laws "mandating paid sick leave and paid family leave for all workers." Proceedings at 31. *See also id.* at 154 (resolving to "promote and support policies toward establishing federally mandated paid parental and sick leave").

- **Advocacy Against Private Contracting.** It is no secret that the AFSCME opposes the government's use of private contractors in place of public employees. The convention announced its opposition to "efforts to privatize public [long-term care] facilities," Proceedings at 58–59, and resolved that public pensions and retirement systems should divest from companies owning or operating private prisons, *id.* at 141–42. *See also id.* at 44 (stating opposition to "privatization of state government services" in Illinois); *id.* at 110 (stating opposition to "privatization of education, market-driven initiatives and takeovers of public institutions by business interests").

- **Advocacy for Minimum Wage Increases**. The convention endorsed the "Fight for $15" to raise the minimum wage to $15 per hour and stated its

opposition to "efforts by state legislatures to restrict local governments from increasing minimum wage standards above the state minimum." Proceedings at 77.

- **Advocacy for Gun Control**. The convention called for "commonsense measures at the federal level" to "restrict[]...the sale of weapons" and "demand[ed] that Congress act now" on such legislation. Proceedings at 140. *See also id.* at 193 (stating support for "legislation to promote research relating to gun violence as a public health problem").
- **Advocacy for D.C. Statehood**. The convention endorsed legislation to recognize the District of Columbia as a state. Proceedings at 178.
- **Advocacy for Marijuana Legalization**. The convention endorsed "the legalization, strong regulation and clear taxation of cannabis, in a manner similar to that of tobacco or alcohol." Proceedings at 156.
- **Advocacy on Voting Rights**. The convention expressed its opposition to voter-identification laws, which it stated are "designed to suppress and disenfranchise voters," and called on Congress "to restore Section 4 of the Voting Rights Act to counter the Supreme Court's activist, anti-democratic decision in *Shelby County v. Holder*." Proceedings at 134–35.
- **Advocacy on Tax Policy**. Because taxes fund government, the AFSCME pays keen attention to

tax policy, generally supporting measures to raise taxes, except where they fall on government workers or public works financing. For example, the convention expressed its support for a new financial transactions tax, Proceedings at 111, 203, as well as for measures to block foreign mergers known as "tax inversions" that may allow corporations to reduce their tax burdens, *id.* at 151. *See also id.* at 30 (opposing "cutting taxes"). At the same time, the convention expressed its opposition to the Affordable Care Act's "Cadillac Tax" on high-cost health insurance plans often provided to public workers, *id.* at 66, and to proposals to eliminate the interest tax exemption for municipal bonds often used to fund public infrastructure projects, *id.* at 23.

- **Advocacy Against State Religious Freedom Laws**. In the wake of *City of Boerne v. Flores*, 521 U.S. 507 (1997), many states have enacted or considered state-level analogues to the federal Religious Freedom Restoration Act. The convention resolved that it "actively and publicly oppose[s]" such laws. Proceedings at 106–07.

- **Advocacy on Immigration Policy**. The convention called for "comprehensive immigration reform with a pathway to citizenship" and urged expansion of President Barack Obama's two executive actions on immigration, Deferred Action on Childhood Arrivals ("DACA") and Deferred Action for Parents of Americans and Lawful Permanent Residents ("DAPA"). Proceedings at 180.

- **Advocacy on "Racial Justice."** A "Racial Justice and Public Safety" resolution adopted by the convention "affirms that black lives do matter" and proclaims that "America must heal" by "demand[ing] justice, change and conciliation." Proceedings at 114–15.
- **Advocacy for Michigan Governor Rick Snyder's Resignation**. The convention resolved that Governor Snyder is responsible for the contamination of drinking water in Flint, Michigan, with lead and "must...resign." Proceedings at 176.
- **Prayer**. Each day of the convention was opened by a religious invocation conducted by clergy who asked conventioneers to join in prayer. Proceedings at 2, 17, 57, 105. The rabbi who opened the convention's final day of proceedings proclaimed that Donald Trump is "a man who would be dictator," that "[w]e will stop him," and that "[w]e are with her." *Id.* at 200.

In short, the convention proceedings are shot through with political and ideological advocacy. And non-members forced by government to remit agency fees to the union paid for approximately 9 percent of it.[4]

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[4] The AFSCME's 2016 LM-2 filing reports that the union has 1,158,258 full-, part-, and half-time members and received agency fees from 110,836 non-members, such that non-

And that's just the annual convention. The AFSCME's operations are marked by intense and pervasive advocacy every other day of the year, as well. In just the past few months, the union has weighed in on such issues as health care reform, immigration enforcement, Puerto Rico's fiscal plan, the nomination and confirmation of then-Judge Neil Gorsuch to this Court, President Donald Trump's "travel ban" executive order, and nearly all of President Donald Trump's cabinet-level nominations.[5] In each instance, the union posted on its website a press release stating its position. Even if the union treats some of this advocacy as non-chargeable—which is impossible to discern from its *Hudson* notices and filings with the Department of Labor—it is still being subsidized by non-members' agency fees, which defray the cost of the union's communications platforms, workforce, and other overhead.[6]

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members comprise approximately 9 percent of the workers represented by the union.

[5] *See* AFSCME, 2017 Press Releases, https://www.afscme.org/news/press-room/press-releases/2017.

[6] *See Hudson* Notice, supra n.2 (reporting that non-members are charged for salaries, editorial services, outside services, and numerous other overhead items).

B. Other Public-Sector Unions Charge Non-Members for Extensive Political and Ideological Advocacy

The AFSCME is not alone among public-sector unions in using non-members' agency fees to fund political and ideological advocacy. For example, the American Federation of Teachers ("AFT") similarly treats its convention expenses as entirely chargeable to non-members and conducts extensive advocacy at its conventions.[7] AFT president Randi Weingarten opened its most recent convention, held in July 2016, by presenting "a forceful case for Hillary Clinton," who also addressed the convention.[8] Donald Trump's campaign, Weingarten lectured conventioneers, "is perilously close to fascism."[9] And the AFT, Weingarten proclaimed, would stand as a "bulwark" against Republicans like Trump and Wisconsin Governor Scott Walker.[10]

The convention adopted resolutions endorsing "racial equity," endorsing a constitutional amendment

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[7] *See* Memorandum from Lorretta Johnson, Secretary-Treasurer, AFT, to Affiliated Locals and State Federations, Aug. 4, 2014, at 3, *available at* https://www.aft.org/sites/default/files/wysiwyg/agency_fee2014_national.pdf.

[8] *Convention 2016 Afterwords*, AFT, July 19, 2016, *available at* https://www.aft.org/sites/default/files/conv16_afterwords_day2.pdf.

[9] *Id.*

[10] *Id.*

to overturn *Citizens United v. FEC*, 558 U.S. 310 (2010), condemning "islamophobia" and supporting increased immigration, calling on Congress to address prescription drug prices, advocating increased antitrust enforcement against "consolidation in healthcare," opposing the Trans-Pacific Partnership trade agreement, and supporting public funding for Planned Parenthood.[11] One single resolution adopted by the convention called for raising the minimum wage, expanding Medicare, increasing infrastructure spending and spending on public services, raising taxes on financial transactions, enacting "comprehensive immigration reform with a path to legal employment," and increasing funding for higher education institutions and students.[12]

Of all the public-sector unions, the National Education Association ("NEA") may have the broadest ideological agenda, publishing a 150-page book of its resolutions currently in force.[13] Among them are resolutions on such likely public policy matters as education financing, charter schools, early childhood

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[11] The resolutions adopted by the AFT convention are available on the union's website. *See* AFT, Resolutions, https://www.aft.org/about/resolutions.

[12] AFT, Resolution: Attack Economic Inequality, https://www.aft.org/resolution/attack-economic-inequality.

[13] NEA, 2016–2017 NEA Resolutions, *available at* http://www.nea.org/assets/docs/Resolutions_2017_NEA_Handbook.pdf [hereinafter "NEA Resolutions"].

learning, class size, and standardized testing. *See* NEA Resolutions at 187 *et seq.* (listing resolutions).

The appearance of other topics is more surprising: tax reform, "social and economic justice," *id.* at 292, the constitutional convention process of Article V (NEA is opposed, preferring congressional proposal and state ratification), *id.* at 313, voting rights, *id.* at 314, historic preservation, *id.* at 315, "covert operations and counterintelligence activities," *id.* at 316, and the "self-determination of indigenous people," *id.* at 327.

And still other resolutions concern particularly divisive matters. The union had adopted resolutions supporting racial preferences at all levels for both students and educational workers, *id.* at 219, 283, 333, comprehensive sex education, *id.* at 238, adoption of the metric system in the United States, *id.* at 240, D.C. statehood, *id.* at 315, U.S. participation in the International Court of Justice and International Criminal Court, *id.* at 316, and severe gun control measures, *id.* at 325–26.

As with the AFSCME and AFT, the NEA adopts its resolutions at its annual "Representative Assembly,"[14] which it treats as fully chargeable to non-

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[14] *See* NEA, 2015–2016 NEA Resolutions, Foreword, *available at* https://ra.nea.org/wp-content/uploads/2016/05/Resolutions_Summary_of_Winter_Committee_Meeting_Actions_2016-1.pdf (describing resolution process). The union appears to regard each annual Representative Assembly as readopting all of the union's in-force resolutions. *See id.* ("Resolutions adopted by

members.[15] The NEA's 2016 Assembly resolved, among other things, to support congressional and presidential voting rights for U.S. territories, restoration of voting rights for felons released from prison, reinstatement of the "Fairness Doctrine" and "affirmative action in broadcast regulations and [] media ownership rules," and funding for "developmentally appropriate gender identity and LGBTQ equity education programs."[16] The Assembly opened with a speech by the NEA president condemning Donald Trump and promising that the union would fight his candidacy.[17] Hillary Clinton spoke before the Assembly the next day, delivering what the NEA's house organ called a "rousing and passionate address."[18]

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the Representative Assembly shall continue in force until the next Representative Assembly acts upon the report of the Resolutions Committee.").

[15] *See, e.g.*, Oregon Educational Association / National Education Association, 2015 *Hudson* Notice, at 7, *available at* http://www.choiceforteachers.com/sites/default/files/ChapMON_HudsonPackOEA_2015-2016.pdf.

[16] NEA 2016 Legislative Amendments, https://ra.nea.org/business-items/?yr=2016&type=leg_amendment.

[17] Remarks As Prepared for Delivery by NEA President Lily Eskelsen García to the 95th NEA Representative Assembly, https://ra.nea.org/speech/?yr=2016/15489/.

[18] NEAToday, 'I'm With You,' Hillary Clinton Tells NEA RA Delegates, *available at* http://neatoday.org/2016/07/05/hillary-clinton-nea-ra/.

As with the AFSCME, these unions' use of non-members' agency fees for political and ideological activities is not limited to conventions and resolutions. Both the AFT and NEA treat educational training and training materials as largely or entirely chargeable to non-members.[19] For example, the AFT treats its annual "AFT TEACH" conference as fully chargeable.[20] The most recent conference features "boot camp" sessions on organizing parents and "community allies" to fight the Trump Administration's education-policy agenda, influencing public policy at the local and state levels, and engaging in immigration-policy activism.[21] The NEA, meanwhile, produces a variety of curricular materials for teachers, including a "Getting Informed and Active" program to promote "social justice" issues in the classroom and in public school administration.[22] That includes materials for discussing diversity, "privilege," and the "hierarchies of oppression."[23]

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[19] *See, e.g.*, Memorandum from Lorretta Johnson, supra n.7, at 3; Oregon Educational Association / National Education Association, 2015 *Hudson* Notice, supra n.15, at 6.

[20] *Id.*

[21] AFT, TEACH 2017 Boot Camps, https://www.aft.org/education/aft-teach/teach-2017-boot-camps.

[22] NEA, Getting Informed and Active, http://www.nea.org/home/64661.htm.

[23] NEA, Diversity Toolkit: Social Justice, http://www.nea.org/tools/30414.htm.

Finally, also like the AFSCME, the AFT and NEA regularly weigh in on a broad variety of political and policy issues, with advocacy that is at least subsidized by non-members' agency fees. In recent months, the AFT has spoken out in opposition to the Trump Administration's withdrawal from the Paris Agreement on climate, this Court's decision in *Trinity Lutheran v. Comer*, No. 15-577 (June 26, 2017), the Trump Administration's tax plan, U.S. airstrikes on Syria, Ivanka Trump's visit to the National Air & Space Museum, and the nomination of then-Judge Neil Gorsuch to this Court.[24] Likewise, the NEA has issued press releases opposing the *Trinity Lutheran* decision, the American Health Care Act, the Gorsuch nomination (three times), and the Trump Administration's "travel ban."[25]

Like the AFSCME, the AFT and NEA are pervasively political and ideological organizations that use non-members' agency fees to subsidize their advocacy across the board.

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[24] AFT, Press Releases, https://www.aft.org/press/releases.

[25] NEA, Press Center, http://www.nea.org/home/1709.htm.

C. Public-Sector Unions Charge Non-Members for Union Organizing Advocacy

Unlike with the examples of union advocacy described above, it can be safely presumed that public-sector employees who have rejected joining a labor union object to its advocacy to organize other workers outside of their own bargaining units and employers. Yet they are often compelled by government to fund that speech, as well, on the theory (first adopted by the Ninth Circuit in a case arising under the National Labor Relations Act) that such organizing may affect "the wages, benefits, and working conditions of employees in the bargaining unit" by reducing competition by employees across an industry. *United Food and Commercial Workers Union, Local 1036 v. NLRB*, 307 F.3d 760, 768–69 (9th Cir. 2002) (en banc) (per Reinhardt, J.).

Relying on that precedent, a New York AFSCME affiliate charged non-member probation officers for its advocacy "organizing low-wage private-sector employees...in the developmental disability, food service, and courier industries." *Scheffer v. Civil Serv. Employees Ass'n, Local 828*, 610 F.3d 782, 785 (2d Cir. 2010). The Second Circuit held that such advocacy was "germane" to collective bargaining—and so in general was chargeable by the union to non-members—but could not be charged to the particular non-members before the court, due to the absence of evidence that their not paying the costs of the organizing presented a free-rider problem. *Id.* at 790. The

Second Circuit's decision therefore permitted the union to continue charging its organizing advocacy to most of the other 18,700 non-members paying it agency fees. *Id.* at 785.

Other AFSCME affiliates have attempted the same gambit, with varying degrees of success. *See, e.g., Mitchell v. City Of Philadelphia*, No. CIV.A.99-6306, 2008 WL 4291154, at *8 (E.D. Pa. Sept. 16, 2008), *aff'd*, 344 F. App'x 775 (3d Cir. 2009) (holding that such expenses are not properly chargeable to non-members). Unfortunately, the AFSCME and other national labor organizations have not disclosed which of their affiliates treat organizing expenses as chargeable to non-members.

One affiliate union that does is the union respondent in this case. The *Hudson* notice it issued to the petitioner states that it regards as chargeable, at least in part, expenses associated with "[o]rganizing other bargaining units," as well as "[s]eeking to gain representation rights in units not represented by AFSCME."[26] The notice, however, does not provide enough information for non-members to determine whether they have been compelled to subsidize organizing advocacy.

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[26] *See Hudson* Notice, supra n.2.

CONCLUSION

The petition should be granted.

Respectfully submitted,

SAM KAZMAN
COMPETITIVE
ENTERPRISE INSTITUTE
1310 L St., N.W.
Washington, D.C. 20005

ANDREW M. GROSSMAN
Counsel of Record
MARK W. DELAQUIL
BAKER & HOSTETLER LLP
1050 Connecticut Ave., N.W.
Washington, D.C. 20036
(202) 861-1697
agrossman@bakerlaw.com

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